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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|-----------------|-------------|----------------------|----------------------|------------------|
| 09/844,864      | 04/27/2001  | Martin M. Matzuk     | P01925US2 (09807797) | 1363             |

26271            7590            07/30/2003  
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[REDACTED] EXAMINER

WILDER, CYNTHIA B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1637     | [REDACTED]   |

DATE MAILED: 07/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

|  |                          |               |
|--|--------------------------|---------------|
| <b>Office Action Summary</b>   | Application No.          | Applicant(s)  |
|  | 09/844,864               | MATZUK ET AL. |
| <b>Period for Reply</b><br><br><i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>  | Examiner                 | Art Unit      |
|  | Cynthia B. Wilder, Ph.D. | 1637          |
| <b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>   |                          |               |
| <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul> |                          |               |
| <b>Status</b>  |                          |               |
| 1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>16 May 2003</u> .  |                          |               |
| 2a) <input checked="" type="checkbox"/> This action is FINAL.      2b) <input type="checkbox"/> This action is non-final.  |                          |               |
| 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  |                          |               |
| <b>Disposition of Claims</b>   |                          |               |
| 4) <input checked="" type="checkbox"/> Claim(s) <u>19-26</u> is/are pending in the application.  |                          |               |
| 4a) Of the above claim(s) <u>19-26</u> is/are withdrawn from consideration.  |                          |               |
| 5) <input type="checkbox"/> Claim(s) _____ is/are allowed.   |                          |               |
| 6) <input type="checkbox"/> Claim(s) _____ is/are rejected.  |                          |               |
| 7) <input type="checkbox"/> Claim(s) _____ is/are objected to.   |                          |               |
| 8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.   |                          |               |
| <b>Application Papers</b>  |                          |               |
| 9) <input type="checkbox"/> The specification is objected to by the Examiner.  |                          |               |
| 10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner.<br>Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).   |                          |               |
| 11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner.<br>If approved, corrected drawings are required in reply to this Office action.  |                          |               |
| 12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.   |                          |               |
| <b>Priority under 35 U.S.C. §§ 119 and 120</b>   |                          |               |
| 13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).<br>a) <input type="checkbox"/> All    b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of:<br>1. <input type="checkbox"/> Certified copies of the priority documents have been received.<br>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.<br>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).<br>* See the attached detailed Office action for a list of the certified copies not received.  |                          |               |
| 14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).<br>a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.  |                          |               |
| 15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  |                          |               |
| <b>Attachment(s)</b>   |                          |               |
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   |                          |               |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   |                          |               |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____   |                          |               |
| 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____   |                          |               |
| 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |                          |               |
| 6) <input type="checkbox"/> Other: _____   |                          |               |

**DETAILED ACTION**

1. Applicant's amendment filed in Paper No. 9 is acknowledged. Claims 1-18 has been canceled. Claims 19-26 have been added. The newly submitted claims have been thoroughly reviewed. However, the newly submitted claims 19-26 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Newly submitted claims 19-26 are drawn to a an isolated polynucleotide having the polynucleotide sequence set forth in Fig. 5 (SEQ ID NO: 5), a fragment or a derivative thereof. The newly submitted claims 19-26 are patentably distinct from the previously examined claim 2 in that the previously examined claim 2 was drawn to an isolated polynucleotide having the polynucleotide sequence set forth in Figure 1 (SEQ ID NO: 16). A review of the specification has revealed that SEQ ID NO: 5 nor the polynucleotide sequence depicted in Figure 5 is related to or is identical to the polynucleotide sequence depicted in Figure 1 or the sequence of SEQ ID NO: 16. Therefore, the newly submitted claims 19-26 have a different inventive entity from the previously examined claim 2 and require a different field of search.
2. Since Applicant has received an action on the merit for the originally present invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly claims 19-26 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP 821.03.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia B. Wilder, Ph.D. whose telephone number is (703) 305-1680. The examiner can normally be reached on Monday through Thursday from 9:30 am to 6:30 pm and Friday from 9:30 am to 1:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (703) 308-1119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-8724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0196.

Cynthia B. Wilder, Ph.D.  
Examiner  
Art Unit 1637

cbw  
July 21, 2003



GARY BENZION, PH.D  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1800